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**SF 237** – Pseudoephedrine Sales and Verification (LSB2046SV)

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Fiscal Note Version – New

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**Description**

Senate File 237 relates to the sale of a pseudoephedrine product by a pharmacy or retailer, and provides penalties and contingent applicability.

**Background**

**Fiscal Information**

- Current law prohibits a person from purchasing more than 7,500 milligrams within a 30-day period. A violation of this restriction is a serious misdemeanor.
- State costs for a serious misdemeanor range from \$180 (court costs) to \$5,600 (court costs including a jury, indigent defense, and prison) per offender convicted.
- According to the Justice Data Warehouse, there were 149 offenders convicted in FY 2008 for the purchase of more than 7,500 milligrams of pseudoephedrine in a 30-day period. This is an increase of 12.9% (132 offenders convicted) compared to FY 2007.
- For calendar year 2008, there were 201 clandestine laboratories seized between State and local law enforcement agencies. This is an increase of 23 seizures from CY 2007.
- Since the enactment of SF 169 (Methamphetamine Act) the number of meth labs in Iowa has been reduced from 1,500 meth labs seized in CY 2004 to 201 meth labs seized in CY 2008.
- There are approximately 790 pharmacies that dispense an average of ten pseudoephedrine-containing products each day.
- The pilot project in Story, Boone, and Greene Counties continues on a voluntary basis and \$29,000 of federal Community-Oriented Policing Services (COPS) – Meth grant funds were invested to purchase equipment. Story County is the lead agency and reports limited success primarily due to larger chain pharmacies not participating.
- The Combat Methamphetamine Epidemic Act of 2005 was incorporated into the Patriot Act, and took effect September 30, 2006. The Act bans over-the-counter sales of cold medicines that contain the ingredient pseudoephedrine, which is commonly used to make methamphetamine. The sale of cold medicine containing pseudoephedrine is limited to behind the counter. The amount of pseudoephedrine that an individual can purchase daily is limited and individuals are required to present photo identification to purchase products containing pseudoephedrine. In addition, stores are required to keep personal information about purchasers for at least two years.

## **Minority Data Information**

- There were 149 offenders convicted in FY 2008 for the purchase of more than 7,500 milligrams of pseudoephedrine in a 30-day period. Of the 149 offenders convicted, 92.0% were Caucasian and 8.0% were minorities. Of the 149 offenders convicted, 40.0% were female and 60.0% were male.
- The U.S. Census estimate for Iowa was 3.0 million people as of July 1, 2007 (the most current estimates available). Men comprise 49.3% of the population. Approximately 91.0% of Iowa's population is white. The composition of the remaining 9.0% is: 2.3% black, 0.3% American Indian or Alaska Native; 1.5% Asian; 0.01% native Hawaiian or other Pacific Islander; 3.8% Hispanic or Latino (of any race); and 1.09% is unknown.
- The U.S. Department of Justice estimates there were 2.3 million offenders incarcerated in federal or State prisons and local jails on June 30, 2007 (the most recent data available). Men comprised 90.9% of the population. Approximately 38.4% of the 2.3 million offenders were black; 37.1% were white; 19.3% were Hispanic; and 5.2% were of other races or unknown.
- According to the Iowa DOC, 72.9% of offenders on probation on June 30, 2008, were men. Approximately 80.2% of offenders on probation are white; 12.6% are black; 5.1% are Hispanic or Latino; 1.1% is American Indian or Alaska Natives; and 1.0% is Asian or Pacific Islander.

## **Assumptions**

### **Fiscal Impact**

- Senate File 237 does not change the penalty or the monthly amount of pseudoephedrine that can be purchased, but does include a daily limit to mirror federal law (3,600 mg), and provides additional oversight on the part of pharmacies. These changes could increase the number of convictions, but the increase is not known at this time.
- The Office of Drug Control Policy is required to implement and maintain a Statewide real-time central repository to track pseudoephedrine product sales at pharmacies.
- Real-time data collection may best be accomplished by contracting with existing switching companies to transmit data from pharmacies to the central repository. Contracts with one or more switching companies are estimated to be \$1,100 per month.
- According to the Board of Pharmacy Examiners, the contract cost for development and implementation of a central database, including coordinating the receipt of data from the switching companies, is estimated to be approximately \$300,000 in one-time costs and annual maintenance (including contract costs) is estimated to be \$48,000.
- Per diem expenses for each advisory committee board member is \$50 and travel expenses are estimated to be \$120.
- The in-house system would be handled by existing staff within the Office of Drug Control Policy.

## **Minority Impact**

- Senate File 237 is not anticipated to have a disproportionate impact on any minority population.
- Approximately 14.0% of Iowa's population has at least one disability. The number of offenders convicted under this Bill who may have a disability may be 14.0%.

## **Summary of Impacts**

### **Correctional Impact**

Adding a 24-hour restriction on the amount of pseudoephedrine purchased may increase the number of charges and convictions, but there is no data available to determine the amount of the increase, if any, due to that provision.

For the last three fiscal years, no offenders entered prison whose lead offense was a violation of Section 124.213, Code of Iowa. Therefore, convictions under this Bill will likely result in a sentence to probation and/or jail, not prison.

### **Minority Impact**

Senate File 237 is not anticipated to have a disproportionate impact on any minority population.

### **Fiscal Impact**

The Bill is contingent upon the receipt of sufficient funding and the establishment of a Statewide central repository in the Office of Drug Control Policy. The Office reports Iowa is earmarked to receive \$750,000 in the FFY 2009 U.S. Commerce Justice Science Appropriation Bill that has not been enacted yet. The federal money is for a two-year period.

The estimated start-up costs for an in-house system range from approximately \$250,000 to \$300,000 and the on-going cost is estimated to be approximately \$50,000 annually. The State may be required to assume the responsibility of the on-going operating costs, if federal funds are not available in future fiscal years.

## **Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJPD)  
Iowa Board of Pharmacy Examiners  
Governor's Office of Drug Control Policy

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56, Code of Iowa](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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